IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

GATDET G. CHUOL,)	
Petitioner,)	8:19CV469
V.)	
SCOTT FRANKS,)	MEMORANDUM AND ORDER
Respondent.)	
	,	

This habeas corpus case is before me on initial review under Rule 4 of the *Rules Governing Section 2254 Cases in the United States District Courts*. Since it plainly appears from the records that Petitioner is not entitled to relief, this matter will be dismissed with prejudice.

This is the third habeas case filed by Petitioner attacking the same convictions. In the first case, *Chuol v. Frakes*, Case no. 8:16CV25, I dismissed the case with prejudice because the federal statute of limitations had run. In the second case, *Chuol v. Frakes*, Case no. 8:19CV79, I dismissed the case because it was a second or successive petition, the record did not reflect that the Court of Appeals had given Petitioner authorization to file that case and no 28 U.S.C. § 2244(b)(2) exceptions had been shown. The second case was resolved on a motion to dismiss that was fully briefed. Both cases are now final.

This third time is not a charm. Like the second case, there has been no showing that any of the exceptions found in 28 U.S.C. § 2244(b)(2) apply and there has been no showing that the Court of Appeals has given Petitioner authorization to proceed under § 2244(b)(3)(A). Thus, this case, like the earlier ones, will be dismissed with prejudice.

Finally, a petitioner cannot appeal an adverse ruling on his petition for writ of habeas corpus under § 2254 unless he is granted a certificate of appealability. 28 U.S.C. § 2253(c)(1); 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1). The standards for certificates (1) where the district court reaches the merits or (2) where the district court rules on procedural grounds are set forth in Slack v. McDaniel, 529 U.S. 473, 484-485 (2000). I have applied the appropriate standard and determined that Petitioner is not entitled to a certificate of appealability.

IT IS ORDERED that the habeas corpus petition, Filing no. 1, is denied and dismissed with prejudice. No certificate of appealability has been or will be issued. Judgment will be issued by separate document. The Clerk shall change the last name of the Respondent from "Franks" to "Frakes."

DATED this 6th day of November, 2019.

BY THE COURT:

s/ *Richard G. Kopf*Senior United States District Judge